

56.510 Conveyance of title of industrial development project to industrial entity -- Acquisition of public project by state -- Lease agreement or financing agreements.

- (1) In carrying out the purposes of this chapter, and in providing for the expenditure of funds for the acquisition of real estate or for a building project for the state or for any state agency, the cabinet may find that the cost may be paid in whole or in part:
 - (a) Out of the funds appropriated specifically for capital outlay purposes;
 - (b) Out of funds directly appropriated to the involved state agency which may legally be available for the purpose;
 - (c) Out of funds derived or which may be derived by the issuance and sale of revenue bonds by the commission (but only for the purpose of acquiring property for use by the state government or one of its departments or agencies, but not including any independent municipal corporation or political subdivision); or
 - (d) By any one (1) or a combination of said methods of financing. Any such findings providing for the issuance and sale of bonds shall be submitted to the commission for final determination. When any funds appropriated to or standing to the credit of a particular state agency are to be used for a purpose of the character above contemplated, the head of the agency may direct that the funds be transferred to the credit of the Finance and Administration Cabinet and made available for expenditure by the Finance and Administration Cabinet for the agreed purpose. Industrial development projects may be financed by the issuance of revenue bonds of the commission only at the request of the Cabinet for Economic Development, subject to the provisions of subsection (3) of this section.
- (2) In any case where the expenditures for the acquisition of real estate or for a building project for the state or any state agency are to be financed in whole or in part by the issuance or sale of revenue bonds, the commission may provide that the title to any real estate which may be so acquired shall not vest in the Commonwealth until the revenue bonds, together with interest thereon, have been paid in full. In such cases the commission may, by agreement or in a trust indenture securing the payment of such revenue bonds, provide that the title of such real estate may be vested in some other state agency, or in a trustee named in such indenture, until the revenue bonds, together with the interest thereon, have been paid in full. It shall be provided in any such financing:
 - (a) That upon the retirement and discharge of the bonds, notes, or other obligations issued by the commission at the direction of and on behalf of a state agency, title to the public project or public projects so acquired shall vest in the Commonwealth;
 - (b) That in the event of default with respect to such bonds, notes, or other obligations, the Commonwealth shall have the exclusive option to acquire the public project or public projects for the amount required to discharge such

bonds, notes, or other obligations, and is provided a reasonable time to exercise such option;

- (c) That the issuance of such bonds, notes, or other obligations shall be directed by and approved by such state agency not more than sixty (60) days prior to the date of issue of such obligations; and
 - (d) That no bonds, notes, or other obligations shall be issued by the commission for and on behalf of such state agency except upon express direction of such state agency.
- (3) (a) In any case where the expenditures for the acquisition, installation and construction of an industrial development project will be financed in whole or in part by the issuance or sale of revenue bonds, the commission may provide that the title to the industrial development project which may be so acquired shall be conveyed to the industrial entity which will occupy and utilize the industrial development project; provided, however, that such conveyance shall only be made if:
- 1. The subject industrial entity agrees in writing prior to the issuance of any revenue bonds to construct and acquire in connection with the industrial development project manufacturing, processing and assembling facilities satisfactory to the commission;
 - 2. The commission makes a finding in writing, that, based upon diligent investigation, the aggregate incremental taxes to be received by the Commonwealth as a result of such industrial development project are reasonably expected, over the life of the revenue bond issue, to be at least equal to the principal amount of any revenue bonds issued to finance such industrial development project;
 - 3. The industrial development project is separately approved in writing by the Governor;
 - 4. The industrial development project is separately approved and authorized by the General Assembly; and
 - 5. Any revenue bond proceedings for the financing of an industrial development project provide that in the event of any disposition by an industrial entity of any such industrial development project previously conveyed to such industrial entity prior to the collection by the Commonwealth of incremental taxes in the amount specified in subparagraph 2. of this paragraph, the subject industrial entity shall pay to the Commonwealth an amount equal to the difference between the aggregate incremental taxes collected by the Commonwealth to such date of disposition and the principal amount of such revenue bonds;
- (b) As an alternate to the initial conveyance of an industrial development project to an industrial entity, such industrial development project may be leased to such industrial entity upon such terms as the commission and the Cabinet for Economic Development shall determine to be proper, and in such case, subject to the provisions of subparagraphs 1., 2. and 3. of paragraph (a) of this

subsection, provision may also be made for title to such industrial development project to be conveyed to the subject industrial entity at such time as the Commonwealth has collected incremental taxes in respect of the industrial development project in an amount equal to the principal amount of any revenue bonds issued to finance such industrial development project;

- (c) It is hereby determined and declared as a legislative finding of fact that the provisions and requirements of paragraphs (a) and (b) of this subsection provide for the receipt by the Commonwealth of fair market value for any industrial development project conveyed to an industrial entity pursuant to this subsection; and
 - (d) The Cabinet for Economic Development is authorized and empowered to initiate industrial development projects and to finance such projects pursuant to the provisions of this chapter. When revenue bonds are issued for the financing of any such industrial development project, the Cabinet for Economic Development is authorized and empowered to enter into financing agreements or lease agreements with the commission providing for the making of financing payments by the Cabinet for Economic Development from appropriations made to the Cabinet for Economic Development as, if and when received, for the amortization of revenue bonds so issued, provided that no such obligation shall be binding upon the Cabinet for Economic Development for a period extending beyond the legislative biennium during which such obligation is incurred, but such obligation may be renewed during successive biennial periods by the Cabinet for Economic Development. The issuance of any revenue bonds, notes or other obligations for the financing of industrial development projects shall be directed by and approved by the Cabinet for Economic Development not more than sixty (60) days prior to the date of the issue of such obligations, and no bonds, notes or other obligations shall be issued by the commission for and on behalf of the Cabinet for Economic Development, except upon such express direction and upon compliance with this subsection. Any portion of an industrial development project may be financed by a city or county of the Commonwealth in the same manner as a financing by the commission under this section, KRS 56.513 and 56.514 or pursuant to the statutory authority of such city or county. In such event, the Cabinet for Economic Development may enter into similar financing agreements or lease agreements with such city or county in order to make proper provision for such financing.
- (4) The cabinet, in providing for the expenditure of funds for any of the purposes mentioned in this section, or the commission in providing for the issuance and sale of revenue bonds, shall have power to provide by agreement with the state agency affected, or by provision in the trust indenture securing the bonds, such terms and conditions as may be considered appropriate and reasonable so as to permit either the leasing to, and use by, any state agency of any building project or the conveyance or lease of any industrial development project to any industrial entity, any such building project to be paid for by such state agency either:

- (a) From its own appropriation;
- (b) By the issuance of revenue bonds; or
- (c) By means of a proposal to pay a rental for the use of all or any part of any building proposed to be constructed and any such industrial development project to be paid for by the Cabinet for Economic Development by the issuance of revenue bonds of the commission, subject to the provisions of subsection (3) of this section, and amortization of such revenue bonds by the Cabinet for Economic Development.

The cabinet or the commission, in making any such lease agreement or financing agreement, or in making provision in any trust indenture securing revenue bonds, is authorized and empowered to lease all or any part of the facility financed for such term and upon such conditions and for such considerations or enter into financing agreements with the Cabinet for Economic Development in respect of any industrial development project as may appear to be in the public interest.

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History: Amended 1986 Ky. Acts ch. 350, sec. 3, effective April 8, 1986. -- Amended 1976 Ky. Acts ch. 205, sec. 3, effective October 1, 1976. -- Amended 1956 (1st Extra. Sess.) Ky. Acts ch. 7, Art. XVI, sec. 9. -- Created 1949 (1st Extra. Sess.) Ky. Acts ch. 11, sec. 8.